

# **Indiana Department of State Revenue**

## **Revenue Ruling #2005-07ST**

June 6, 2005

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### **ISSUES**

Sales and Use Tax—Purchase of tools and raw materials directly used in the direct fabrication of materials

Authority: IC 6-2.5-5-3; IC 6-2.5-5-6; 45 IAC 2.2-5-10(a).

Sales and Use Tax—Purchase of wiring and other related items that enable production equipment to operate

Authority: 45 IAC 2.2-5-8(g)(5).

### **STATEMENT OF FACTS**

The taxpayer is a construction company. It is considering the formation of a separate legal entity that will assume fabrication operations for the construction company. In most instances, the construction company will retain title to the materials that will become part of the final output. The fabrication operations will charge the construction company a fee for the services.

The taxpayer seeks a ruling on whether the purchase of tools and raw materials directly used in direct fabrication of components sold to the construction company are exempt from sales tax under the production exemption, IC 6-2.5-5-3.

The fabrication operations also is considering the construction of a fabrication shop. Part of the project will involve electrical and other work that will make it possible for production equipment to operate.

The taxpayer seeks a ruling on whether the purchase of wiring and other related items that enable production equipment to operate qualify for the production exemption to sales tax.

## **DISCUSSION**

Taxpayer has stated that the fabrication process used by Fabrication Operations will consist of two parts. The first part consists of the purchase of raw materials and the use of tools to fabricate metal posts and plates. IC 6-2.5-5-3 states that the purchase of tools and equipment acquired for direct use in the fabrication of other tangible property is exempt from sales tax. Therefore, any tools purchased by Fabrication Operations that will be directly used in fabrication will be exempt from sales tax. As for the raw materials, they are exempt under IC 6-2.5-5-6, which states that the purchase of tangible personal property is exempt if it is acquired for incorporation into other tangible personal property which the purchaser manufactures, assembles, refines, or processes for sale in his business.

Fabrication Operations states it will use its own tools on Construction Company's raw materials to process metal parts. This falls under 45 IAC 2.2-5-10(a) which interprets IC 6-2.5-5-3. The application of the regulation means that if Fabrication Operations acquires tangible personal property belonging to Construction Company, processes that property, and then transfers it back to Construction Company for resale—then Fabrication Operations is an industrial processor. As an industrial processor, Fabrication Operations is exempt from sales tax. Tools purchased by Fabrication Operations used in fabrication will be exempt from sales tax.

Concerning the purchase by Fabrication Operations of wiring and other related items that enable production equipment to operate, the example in 45 IAC 2.2-5-8(g)(5) states:

**A metal manufacturer uses a variety of electrically-powered production equipment which has differing voltage and power requirements. Power cables used to bring electricity to the manufacturer's plant are taxable. Switch gears, transformers, conduits, cables, controls, rectifiers, and generators which are interconnected with the production equipment and serve as an electrical distribution system for such equipment are exempt from tax. Items used to distribute electricity for general lighting and space heating are taxable.**

Since the taxpayer has not stated specifically what wiring and parts are to be employed and where they are to be employed, and because exemption scenarios are fact sensitive, the example from 45 IAC 2.2-5-8(g)(5) serves as a guide to the taxpayer.

## **RULING**

The Department rules that tools purchased by Fabrication Operations that are directly used in fabrication will be exempt from sales tax. Purchases of raw materials are exempt from sales tax when acquired for incorporation into other tangible personal property which the purchaser manufactures, assembles, refines, or processes for sale. Wiring and parts are exempt when connected to production equipment that is directly used in direct production and serve as part of an electrical distribution system for such equipment. Wiring and parts are taxable sales when they are not directly connected to production equipment.

### **CAVEAT**

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection

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